SUPREME COURT OF THE UNITED STATES

PAN AMERICAN WORLD AIRWAYS, INC. *v.*
JOHN C. COOK ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 85–878. Decided January 27, 1986

The petition for a writ of certiorari is denied.

JUSTICE WHITE, with whom JUSTICE O'CONNOR joins, dissenting.

This petition presents the issue whether an integrated employee seniority list that was adopted by an airlines pursuant to a merger plan that the Civil Aeronautics Board (CAB) approved as "fair and equitable" can be attacked collaterally by the airline's employees in an action under the Age Discrimination in Employment Act (ADEA), 29 U. S. C. §621 *et seq.* The United States Court of Appeals for the Second Circuit held that respondents are entitled to bring such a collateral ADEA action. 771 F. 2d 621 (1985). This decision squarely conflicts with *Carey* v. *O'Donnell*, 506 F. 2d 107 (1974), cert. denied, 419 U. S. 1110 (CADC 1975). *Carey* holds that Section 1006 of the Federal Aviation Act, 49 U. S. C. §1486, which vests exclusive jurisdiction in the United States Court of Appeals for the District of Columbia to review CAB orders, precludes a collateral ADEA action of the type allowed by the Second Circuit in the present case. I would grant certiorari to resolve this conflict.